

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1115

6
7 H.P. 867

House of Representatives, March 8, 1983

8 Submitted by the Department of Human Services pursuant to Joint Rule
9 24.

10 On Motion of Representative Hobbins of Saco referred to the Committee
on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Handy of Lewiston.

11 Cosponsors: Representative Soule of Westport, Representative Diamond
of Bangor and Representative Murray of Bangor.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the Probate Code.
18

19 Be it enacted by the People of the State of Maine as
20 follows:

21 Sec. 1. 18-A MRSa §5-303, sub-§(b), as enacted
22 by PL 1979, c. 540, §1, is amended to read:

23 (b) Upon the filing of a petition, the court
24 shall set a date for hearing on the issues of inca-
25 pacity and unless the allegedly incapacitated person
26 has counsel of his own choice, it may appoint an
27 appropriate official or attorney to represent him in
28 the proceeding, who shall have the powers and duties
29 of a guardian ad litem. The person alleged to be
30 incapacitated shall be examined by a physician or by
31 a licensed psychologist acceptable to the court who
32 shall submit his report in writing to the court. The
33 court may appoint a visitor who shall interview the
34 allegedly incapacitated person and the person who is
35 seeking appointment as guardian, and visit the

1 present place of abode of the person alleged to be
2 incapacitated and the place it is proposed that he
3 will be detained or reside if the requested appoint-
4 ment is made, and submit his report in writing to the
5 court. The person alleged to be incapacitated is
6 entitled to be present at the hearing in person, and
7 to see and hear all evidence bearing upon his condi-
8 tion. He is entitled to be represented by counsel,
9 to present evidence, to cross-examine witnesses,
10 including the physician and the visitor. The issue
11 may be determined at a closed hearing if the person
12 alleged to be incapacitated or his counsel so
13 requests.

14 Sec. 2. 18-A MRSA §5-407, sub-§(b), as enacted
15 by PL 1979, c. 540, §1, is amended to read:

16 (b) Upon receipt of a petition for appointment
17 of a conservator or other protective order for
18 reasons other than minority, the court shall set a
19 date for hearing. Unless the person to be protected
20 has counsel of his own choice, the court may appoint
21 a lawyer to represent him who then has the powers and
22 duties of a guardian ad litem. If the alleged dis-
23 ability is ~~mental illness, mental deficiency,~~ physi-
24 cal illness or disability, advanced age, chronic use
25 of drugs, or chronic intoxication, the court may
26 direct that the person to be protected be examined by
27 a physician acceptable to the court, preferably a
28 physician who is not connected with any institution
29 in which the person is a patient or is detained. If
30 the alleged disability is mental illness or mental
31 deficiency, the court may direct that the person to
32 be protected be examined by a physician or by a li-
33 censed psychologist acceptable to the court; prefer-
34 ably the physician or psychologist shall not be con-
35 connected with any institution in which the person is a
36 patient or is detained. The court may send a visitor
37 to interview the person to be protected. The visitor
38 may be a guardian ad litem or an officer or employee
39 of the court.

40 Sec. 3. 18-A MRSA §5-613, as enacted by PL 1979,
41 c. 540, §1, is amended to read:

42 §5-613. Incapacitated persons; guardian ad litem
43 costs

